



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/158,033	11/26/93	FILEPP	R PRD008

PAUL C. SCIFO
233 BROADWAY, SUITE 4703
NEW YORK, NY 10279

EPM1/0405

ROBERTSON, EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

2312

2

DATE MAILED: 04/05/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 35 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

- ☒ Claims 1-20 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-20 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

This action is in response to the filing of a Divisional application on November 26, 1993.

The drawings filed November 26, 1993 are not objected to by the Office draftsman, see accompanying PTO-948.

The disclosure is objected to because of the following informalities:

The specification and drawings must be amended and revised to correct unnecessary prolixity and secure correspondence between the claims, the specification and the drawings as required, see 37 C.F.R. § 1.117.

The claims appear to be directed to the transfer and storage of data between various parts of a network system. Therefore, the specification and drawings must be modified to comply with the rules.

More specifically, figures 1, 2, 3a and 3b appear to correspond to the claimed subject matter. Figures 4a, 4b, 4c, 4d, 5a and 5b must be modified to remove all of the unrelated subject matter. Figures 6 through 11 must be cancelled, as they do not appear to relate to the claimed subject matter.

The claims as presented are extremely broad and do not include many significant details of any sort. Therefore, it is clear that the 65 pages of specification are excessive. The description of the claimed invention appears to be limited to pages 45 through 51. Pages 8 through 44 and 52 through 65 should be reduced to a few pages to focus the disclosure on the claimed invention and obtain the required correspondence. Additionally, it is noted that pages 45 through 51 include a significant amount of superfluous information that is not found in any of the claims and these pages should also be significantly edited.

Appropriate correction is required.

Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As pointed out above, the specification is exceedingly long, and includes detailed discussion of numerous aspects that do not appear to be related to the claimed subject matter. Inasmuch as some ambiguity exists as to what portions of the vast specification correspond to the claims, the claims are rejected as being vague and indefinite. Further, the terms and phrases used in the claims do not appear to have clear support or antecedent basis in the specification as required, therefore adding to the ambiguity, see 37 C.F.R. § 1.75(d)(1).

Finally, inasmuch as the presently filed divisional application is significantly editorially different from the parent application, it is not clear where the presently claimed subject matter has support in the parent application, for purposes of establishing the effective date of the claimed subject matter (note that the immediate parent of the present application is a continuation-in-part of a still further continuation-in-part application). Applicant is requested to indicate what pages of the parent application disclose the instant invention and state when that particular subject matter was initially presented.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

Claims 1-2 are rejected under 35 U.S.C. § 102(a) as being anticipated by standard downloading practices. Well before applicants filing date, it was a common procedure for computer users to dial up to bulletin board services and other systems for the purpose of playing games, exchanging software, etc. Typically, these bulletin boards would download terminal software (e.g., VT100, ANSI etc.), or decompression software (e.g., PKZIP, etc.) which was saved for subsequent uses (sessions). These files would have included storage control or data

identification parameters (e.g., archive, read-only, file name, version numbers, time stamps, etc.). Official notice of such well known procedures and practices is taken.

Claims 1-2 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kret. The system described by Kret (i.e., TIRKS) teaches transferring data from a network host to a user work-station. Data stores exist at both the Host and workstation, data was transferred back and forth with appropriate storage control or data identification parameters, including date, time stamp, version number, etc., for future manipulation and work, and selectively retained and managed.

Claims 3-20 are rejected under 35 U.S.C. § 103 as being unpatentable over Kret in view of standard practices in the art. The basics of the Kret teachings have been discussed above. Note that the disclosed workstations are IBM PCs running PC-DOS, and as such inherently include short term (session) memory (RAM) and long term (between session) memory (disks). The reference does not appear to teach a least-recently-used data management system for selectively retaining data at the workstations or in memory; or a cache system for temporarily caching the data. It was well known in the art to manage limited resources like memory in a least-recently-used (LRU) fashion to reduce required amount of memory and to thereby reduce costs while not seriously degrading performance by selectively retaining those portions of data that appear to be in most demand, and Official notice is taken. Applicants are also aware of the notorious nature of such systems, see specification, page 45, lines 33-35. The use of caches was also notorious, to speed up access to and from slower forms of memory (e.g., disks, dynamic ram, etc.) or to buffer incoming or outgoing transmissions, etc. It would have been obvious at

Serial No. 08/158033
Art Unit 2312

-6-

the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to have modified the system described by Kret to include notoriously well known caching to speed up the system data accessing as well as to include notoriously well known LRU memory management system to provide for improved system performance as was well known.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-9600**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Robertson whose telephone number is (703) 305-3825.

RECEIVED
APR 1 1994
D.L.R.

DLR/012
April 1, 1994

RECEIVED
APR 1 1994
D.L.R.



DAVID L. ROBERTSON
PRIMARY EXAMINER
ART UNIT 2312

FORM PTO-892
(REV. 3-78)U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

SERIAL NO.

08/158 033

GROUP/ART UNIT

2312

ATTACHMENT
TO
PAPER
NUMBER

2

NOTICE OF REFERENCES CITED

APPLICANT(S)

Filepp et al.

U.S. PATENT DOCUMENTS

*	DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE IF APPROPRIATE
A	4751635	6/1988	Krot	364	200	4/16/86
B						
C						
D						
E						
F						
G						
H						
I						
J						
K						

FOREIGN PATENT DOCUMENTS

*	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS	PERTINENT SHTS. DWG.	PP. SPEC.
L								
M								
N								
O								
P								
Q								

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

R	
S	
T	
U	

EXAMINER

DATE

Robertson

4/1/94

* A copy of this reference is not being furnished with this office action.
(See Manual of Patent Examining Procedure, section 707.05 (a).)

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

PTO Draftpersons review all originally filed drawings regardless of whether they are designated as formal or informal. Additionally, patent Examiners will review the drawings for compliance with the regulations. Direct telephone inquiries concerning this review to the Drawing Review Branch, 703-305-8404.

The drawings filed (insert date) 11/26/93, are
 A. ☒ not objected to by the Draftsperson under 37 CFR 1.84 or 1.152.
 B. ☐ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawings must be submitted according to the instructions on the back of this Notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:

- Black ink. Color.
☐ Not black solid lines. Fig(s) _____
☐ Color drawings are not acceptable until petition is granted.

2. PHOTOGRAPHS. 37 CFR 1.84(b)

- ☐ Photographs are not acceptable until petition is granted.

3. GRAPHIC FORMS. 37 CFR 1.84 (d)

- ☐ Chemical or mathematical formula not labeled as separate figure. Fig(s) _____
☐ Group of waveforms not presented as a single figure, using common vertical axis with time extending along horizontal axis. Fig(s) _____
☐ Individual waveform not identified with a separate letter designation adjacent to the vertical axis. Fig(s) _____

4. TYPE OF PAPER. 37 CFR 1.84(e)

- ☐ Paper not flexible, strong, white, smooth, nonshiny, and durable. Sheet(s) _____
☐ Erasures, alterations, overwritings, interlineations, cracks, creases, and folds not allowed. Sheet(s) _____

5. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable paper sizes:

- 21.6 cm. by 35.6 cm. (8 1/2 by 14 inches)
 21.6 cm. by 33.1 cm. (8 1/2 by 13 inches)
 21.6 cm. by 27.9 cm. (8 1/2 by 11 inches)
 21.0 cm. by 29.7 cm. (DIN size A4)

- ☐ All drawing sheets not the same size. Sheet(s) _____
☐ Drawing sheet not an acceptable size. Sheet(s) _____

6. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Paper size

21.6 cm. X 35.6 cm. (8 1/2 X 14 inches)	21.6 cm. X 33.1 cm. (8 1/2 X 13 inches)	21 cm. X 27.9 cm. (DIN Size A4)
T 5.1 cm. (2")	2.5 cm. (1")	2.5 cm. (1")
L .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")
R .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")
B .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")

Margins do not conform to chart above.

Sheet(s) _____

Top (T) _____ Left (L) _____ Right (R) _____ Bottom (B) _____

7. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

- ☐ All views not grouped together. Fig(s) _____
☐ Views connected by projection lines. Fig(s) _____
☐ Views contain center lines. Fig(s) _____

Partial views. 37 CFR 1.84(h)(2)

- ☐ Separate sheets not linked edge to edge. Fig(s) _____
☐ View and enlarged view not labeled separately. Fig(s) _____
☐ Long view relationship between different parts not clear and unambiguous. 37 CFR 1.84(h)(2)(iii) Fig(s) _____

Sectional views. 37 CFR 1.84(h)(3)

- ☐ Hatching not indicated for sectional portions of an object. Fig(s) _____
☐ Hatching of regularly spaced oblique parallel lines not spaced sufficiently. Fig(s) _____
☐ Hatching not at substantial angle to surrounding axes or principal lines. Fig(s) _____
☐ Cross section not drawn same as view with parts in cross section with regularly spaced parallel oblique strokes. Fig(s) _____
☐ Hatching of juxtaposed different elements not angled in a different way. Fig(s) _____

Alternate position. 37 CFR 1.84(h)(4)

- ☐ A separate view required for a moved position. Fig(s) _____

Modified forms. 37 CFR 1.84(h)(5)

- ☐ Modified forms of construction must be shown in separate views. Fig(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

- ☐ View placed upon another view or within outline of another. Fig(s) _____
☐ Words do not appear in a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) _____

9. SCALE. 37 CFR 1.84(k)

- ☐ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s) _____
☐ Indication such as "actual size" or "scale 1/2" not permitted. Fig(s) _____
☐ Elements of same view not in proportion to each other. Fig(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

- ☐ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (except for color drawings). Fig(s) _____

11. SHADING. 37 CFR 1.84(m)

- ☐ Shading used for other than shape of spherical, cylindrical, and conical elements of an object, or for flat parts. Fig(s) _____
☐ Solid black shading areas not permitted. Fig(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

- ☐ Numbers and reference characters not plain and legible. 37 CFR 1.84(p)(i) Fig(s) _____
☐ Numbers and reference characters used in conjunction with brackets, inverted commas, or enclosed within outlines. 37 CFR 1.84(p)(i) Fig(s) _____
☐ Numbers and reference characters not oriented in same direction as the view. 37 CFR 1.84(p)(i) Fig(s) _____
☐ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s) _____
☐ Numbers, letters, and reference characters do not measure at least .32 cm. (1/8 inch) in height. 37 CFR(p)(3) Fig(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

- ☐ Lead lines cross each other. Fig(s) _____
☐ Lead lines missing. Fig(s) _____
☐ Lead lines not as short as possible. Fig(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

- ☐ Number appears in top margin. Fig(s) _____
☐ Number not larger than reference characters. Fig(s) _____
☐ Sheets not numbered consecutively, and in Arabic numerals, beginning with number 1. Sheet(s) _____

15. NUMBER OF VIEWS. 37 CFR 1.84(u)

- ☐ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) _____
☐ View numbers not preceded by the abbreviation Fig. Fig(s) _____
☐ Single view contains a view number and the abbreviation Fig. Fig(s) _____
☐ Numbers not larger than reference characters. Fig(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

- ☐ Corrections not durable and permanent. Fig(s) _____

17. DESIGN DRAWING. 37 CFR 1.152

- ☐ Surface shading shown not appropriate. Fig(s) _____
☐ Solid black shading not used for color contrast. Fig(s) _____